

HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No.25141 of 2007

Dated:27.11.2007

Between:

Killi Narasimmappa Rao

...Petitioner

And:

The Sub-Registrar, Bheemunipatnam,
Bheemunipatnam Mandal, Visakhapatnam
District.

...Respondent

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 25141 of 2007

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Oral order:

The petitioner, who is an ex-service man, has filed this writ petition to declare the action of the respondent in not registering the sale deeds on presentation in respect of an extent of Ac.3.00 dry land in Sy. No. 369, Kapuluppada village, Bheemunipatnam Mandal, Visakhapatnam, as illegal and arbitrary and violative of G.O. Ms. No.117, Revenue (Assignment) Department, dated 11.11.1993, and consequently direct the respondent to register the sale deeds on presentation in terms of the above G.O.

The petitioner retired from the service of the Indian Army. He states that while he was in service, he was granted D-Form patta vide proceedings in D.R. No. 629/94, dated 30.10.1994 by the Mandal Revenue Officer, Bheemunipatnam, in respect of an extent of Ac.3.00 dry land in Sy. No. 369, Kapuluppada village, Bheemunipatnam

Mandal. Thereafter, he was issued Pattadar Pass Book bearing No. 934. He states that since the date of assignment, he has been in peaceful possession and enjoyment of the same and that his name also has been entered in the revenue records such as Adangals and FMB Register.

The petitioner states that due to financial crises, he wanted to sell the land assigned to him, and that when he presented the sale deed for registration, the respondent refused to receive and register the same on the ground that the land is an assigned land. The petitioner states that the Government issued G.O. Ms. No. 1117, dated 11.11.1993, permitting ex-service men to sell away the lands assigned to them after a ten years from the date of assignment. It is his case that since more than ten years had elapsed from the date of assignment of the land, having regard to the orders issued by the Government in the aforementioned G.O., he is entitled to sell the land, and the action of the respondent in refusing to receive and register the sale deed, is illegal, arbitrary and violative of G.O. Ms. No. 1117, dated 11.11.1993. Hence, he prays for appropriate directions.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue for the respondent.

The material papers filed by the petitioner along with the writ petition shows that he was granted D-Form patta in respect of the land, which he wants to alienate, on 30.10.1994 vide proceedings in D.R. No. 629/94 of the Mandal Revenue Officer, Bheemunipatnam, and the status of the petitioner is mentioned as ex-service man. A perusal of G.O. Ms. No. 1117, dated 11.11.1993, issued by the Government, in partial modification of G.O. Ms. No. 743 Revenue (B) Department, dated 30.04.1963, would disclose that the Government had clarified that ex-service men are free to sell away the land assigned to them after a period of ten years from the date of assignment. Inasmuch as it is the case of the petitioner, and in fact, which is evident from the material filed by him, that more than ten years have elapsed from the date of assignment of the land,

I am of the considered opinion that the petitioner is entitled to sell away the land assigned to him, and the respondent could not have refused to receive and register the sale deed and more so without recording any reasons.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Government Pleader for Revenue that in the

absence of any reason assigned by the respondent for not receiving and registering the sale deed presented by similarly placed ex-service man, this Court disposed of the writ petition filed by him in W.P. No. 21709 of 2007, dated 11.10.2007 with the following directions:

The respondent-Sub-Registrar, Bheemunipatnam, Visakhapatnam District, is directed to receive the document proposed to be presented by the petitioner for registration and consider the same in accordance with the provisions of the Registration Act, 1908 ('the Act') for brevity) and the Rules made thereunder and also G.O. Ms. No. 1117, dated 11.11.1993. Petitioner shall place a copy of the aforesaid G.O. before the respondent. It is clarified that if there are any objections for registering the said document, it is open for him to make an endorsement to that effect, record reasons and communicate the same to the petitioner as per Section 71 of the Act.

Since the facts of the present case, are similar to the one in W.P. No. 21709 of 2007, dated 11.10.2007, I deem it appropriate to dispose of this writ petition also by and in terms of the directions as made therein and as extracted above.

Accordingly, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 27th November, 2007.
KSR/DR

